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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON

7 JOSE C. RUIZ,

8  
9 Plaintiff,

10 v.

11 STATE OF WASHINGTON, JOSEPH  
12 A. BRUSIC, PAUL KELLEY,  
13 GEORGE P. TREJO, JR. and JUDGE  
14 RICHARD H. BARTHELD,

15 Defendants.

No. 1:17-cv-03014-SAB

ORDER ADOPTING REPORT AND  
RECOMMENDATION AND  
DISMISSING ACTION WITHOUT  
PREJUDICE

16 Magistrate Judge Rodgers filed a Report and Recommendation on April 17,  
17 2017, recommending Mr. Ruiz's civil rights complaint be dismissed without  
18 prejudice. ECF No. 9. He concluded that Plaintiff brought this action against  
19 persons and entities who are not "persons" under 42 U.S.C. § 1983, *Will v. Mich.*  
20 *Dep't of State Police*, 491 U.S. 58, 71 (1989); *Miranda v. Clark Cnty. Nev.*, 319  
21 F.3d 465, 468 (9th Cir. 2003) (en banc); and against individuals shielded by  
22 judicial and prosecutorial immunity, *Imbler v. Pachtman*, 424 U.S. 409, 430-431  
23 (1976); *Ashelman v. Pope*, 793 F.2d 1072, 1078 (9th Cir. 1986). It further appeared  
24 that abstention was appropriate under *Younger v. Harris*, 401 U.S. 37, 53-54  
25 (1971).  
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27 Plaintiff did not file a timely objection to the Report and Recommendation.

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ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING ACTION  
WITHOUT PREJUDICE -- 1

Accordingly, IT IS HEREBY ORDERED:

1. The Court **ADOPTS** the Report and Recommendation in its entirety, ECF No. 9, and this action is **DISMISSED WITHOUT PREJUDICE** for failure to state a claim upon which relief may be granted. This dismissal does not constitute a strike under § 1915(g). *Washington v. Los Angeles Cnty. Sheriff's Dep't*, 833 F.3d 1048, 1058 (9th Cir. 2016).
2. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this Order would not be taken in good faith and would lack any arguable basis in law or fact.

**IT IS SO ORDERED.** The Clerk of Court is directed to **ENTER** this Order, **ENTER** judgment of dismissal, **FORWARD** copies to Plaintiff at his last known address and **CLOSE** the file.

**DATED** this 24th day of May 24, 2017.



A handwritten signature in blue ink that reads "Stanley A. Bastian". The signature is fluid and cursive, with a horizontal line underneath it.

Stanley A. Bastian  
United States District Judge